HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No. 344 of 2007

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Between:

Fishermen Cooperative Society,
Budhwarpet, Nirmal, Adilabad District

... Appellant

And

State of Andhra Pradesh,
Rep. by District Collector,
Adilabad & others

....Respondents.

:: J U D G M E N T ::

Counsel for the appellant : Shri N. Sridhar Reddy

Counsel for respondent No.3 : Shri P. Radha Krishna

26.04.2007

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 10.04.2007 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for issue of a direction to the official respondents to ensure that the Dharmasagar tank and Gollapet kunta situated at Budhwarpet Village of Nirmal Mandal, Adilabad District is not encroached by anybody.

In the affidavit filed by him, Sri M. Rajam, President of the appellant society averred that some persons belonging to the ruling party seem to have purchased land comprised in Survey No.2032, which formed part of tank bed of Dharmasagar tank and they are trying to encroach the tank. He further averred that despite repeated representations made to the district authorities including District Collector, Adilabad, no action has been taken to protect the tanks.

The learned Single Judge dismissed the writ petition by observing that the appellant has approached the Court in hot haste, inasmuch as, he did not wait for even two weeks after making representation to the district authorities to prevent encroachment of the land forming part of the tank.

We have heard Shri N. Sridhar Reddy, learned counsel for the appellant and learned Government Pleaders for Revenue and Fisheries and perused the record.

In our opinion, the learned Single Judge should not have non-suited the appellant by adopting a hyper-technical approach that it had rushed to the Court without waiting for a reasonable time after making representation to respondent Nos. 2 and 3 for stopping encroachment. In our considered view, the tank and other water bodies constitute the property of the public and lifeline of the people of the area and any encroachment in such water bodies can appropriately be construed as a threat to the constitutional right to

life guaranteed to the citizens under Article 21 of the Constitution of India. Therefore, we consider it proper to direct respondent Nos. 1 to 4 to take immediate steps for preventing any encroachment on Dharmasagar tank and Gollapet kunta.

With the above direction, the appeal is disposed of.

If the appellant finds that despite this order, the official respondents have not taken steps to prevent encroachment in Dharmasagar tank and Gollapet kunta, then it shall be free to file an application for initiation of contempt proceedings against the concerned officers by showing that they have acted in violation of the direction given by the Court in this appeal and also in Writ Petition Nos. 1615 of 2005 and 2493 of 2006 filed in public interest.

As a sequel to disposal of the writ appeal, W.A.M.P.No.653 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

26.04.2007

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